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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/585,129	05/31/2000	Scott T. Hughes	K35A0614	3846

26332 7590 12/13/2002

WESTERN DIGITAL CORP.
20511 LAKE FOREST DRIVE
C205 - INTELLECTUAL PROPERTY DEPARTMENT
LAKE FOREST, CA 92630

EXAMINER

BACKER, FIRMIN

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 12/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/585,129

Applicant(s)

HUGHES ET AL.

Examiner

Firmin Backer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 0200.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendment

This is in response to an amendment file on December 4th, 2002 for letter for patent filed on May 20th, 2000 in which claims 1-10 were presented for examination. In the amendment, claims 6 have been amended. Claims 1-10 remain pending in the letter.

Response to Arguments

1. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merriman et al (U.S. PA Pub. No. 2002/0072965 A1) in view of Middleton (U.S. Patent No. 6,393,407).
4. As per claim 1, Merriman et al teach a method of operating a content delivery system for distributing advertising content (*methods and apparatuses for delivery of advertisements*) to users of personal computers (*users' browser, 16*), (*see fig 1, 2*) comprising collecting (*gathers*)

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identification data (*information about individual users*) from a network (*network 10*) of personal computers, receiving the advertising content from an advertiser (*see page 2 paragraph 0026*), formatting the advertising content for storage and display in the personal computers (*see page 3 paragraph 0021*), and distributing, using the collected identification data, the formatted advertising content to the personal computers (*see page 2 paragraph 0017, 0018, 0021*).

Merriman et al fail to teach an inventive concept wherein the personal computers are configured to periodically receive and store advertising content and display the advertising content while or before bootloading a user selected application environment. However, Middleton III et al teach an inventive concept wherein the personal computers are configured to periodically receive and store advertising content and display the advertising content while or before bootloading a user selected application environment (*see column 2 lines 54-3 line 2*). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Merriman et al's inventive concept to include Middleton III et al's personal computers are configured to periodically receive and store advertising content and display the advertising content while or before bootloading a user selected application environment because this would have allowed advertiser to track consumer response to specific elements of the Web page/application environment as well as to better infer information about the user's interests in an effort to qualify the user prior to presenting subsequent advertising.

5. As per claims 2, 3, Merriman et al teach a method wherein the identification data comprises a unique identifier/internet protocol that is associated with one of the personal computers (*see page 2 paragraph 0018*).

6. As per claim 4, Merriman et al teach a method of receiving preference data from the personal computers; and selecting the advertisement data that is to be distributed, at least in part, based upon the received preferences (*see page 2 paragraph 0017, 0018, 0021*).

7. As per claim 5, Merriman et al teach a method of associating a fee with data representative of the advertiser, and storing the fee in a storage device (*see page 3 paragraph 0021*).

8. As per claim 6, Merriman et al teach a content delivery system comprising for distributing advertising data (*methods and apparatuses for delivery of advertisements*) to a network of personal computers (*users' browser, 16*), (*see fig 1, 2*) comprising an identification database comprising identification data, wherein the identification data uniquely identifies a computer or a user in the network of personal computers (*information about individual users*) (*see page 2 paragraph 0017, 0018, 0021*), an advertisement database comprising advertising data (*advertising server processes, 19*), a collection module for collecting the identification from the network of personal computers and storing the collection information in the identification database (*see page 2 paragraph 0017, 0018, 0021*), a formatting module for formatting and storing advertisement data in the advertisement database (*see page 3 paragraph 026*), and a control module that distributes the formatted advertising data to the network of personal computers upon the occurrence of one or more events (*see page 2 paragraph 0017, 0018, 0021*).
Merriman et al fail to teach an inventive concept wherein the personal computers are configured

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to periodically receive and store advertising content and display the advertising content while or before bootloading a user selected application environment. However, Middleton III et al teach an inventive concept wherein the personal computers are configured to periodically receive and store advertising content and display the advertising content while or before bootloading a user selected application environment (*see column 2 lines 54-3 line 2*). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Merriman et al's inventive concept to include Middleton III et al's personal computers are configured to periodically receive and store advertising content and display the advertising content while or before bootloading a user selected application environment because this would have allowed advertiser to track consumer response to specific elements of the Web page/application environment as well as to better infer information about the user's interests in an effort to qualify the user prior to presenting subsequent advertising.

9. As per claims 7, 8, Merriman et al teach a content delivery system wherein the identification data comprises a unique identifier/internet protocol that is associated with one of the personal computers (*see page 2 paragraph 0018*).

10. As per claim 9, Merriman et al teach a content delivery system wherein the control module receives preference data from the personal computers, and wherein the control module selects the advertisement data that is to be distributed, at least in part, based upon the received preferences (*see page 2 paragraph 0017, 0018, 0021*).

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11. As per claim 10, Merriman et al teach a content delivery system wherein the control module associates a fee with data representative of the advertiser; and wherein the control modules stores the fee in a storage device that is associated with one of the personal computers (*see page 2 paragraph 0026*).

Conclusion

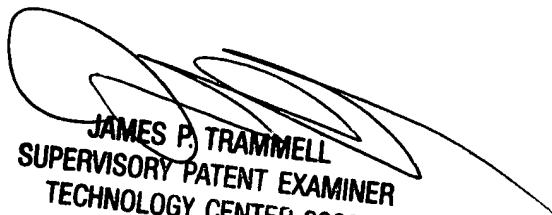
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (*see PTO 892*).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Firmin Backer
December 9, 2002


JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600